

REMARKS

Applicants respectfully request reconsideration of this application as amended.

By this amendment, Claim 24 has been amended to ensure full compliance with § 101.

Independent claims 1 and 26 recite “wherein, the request to change the menu structure is one or more of a request to hide a portion of the plurality of menus and a request to require authentication for a portion of the plurality of menus.”

Independent claim 49 recites “wherein, one or more of the first and second set of changes to the menu structure include one or more of a request to hide a portion of a menu and a request to require authentication for a portion of a menu.”

The Office Action rejects the claim in view of Gallagher and Neidereder. (Note - it appears the incorrect Patent Number for Neidereder is listed in paragraph 4 of the Office Action. Applicants believe the correct Patent Number is 7,220,941.)

Gallagher is directed to a system and method for providing a Lightweight Directory Application Protocol (LDAP) version of a telephone user interface, such as Interactive Voice Response (IVR). A user’s telephone number corresponds to an entry in the LDAP directory. The directory entry maps the telephone number to other entries in the directory.

The Office Action concedes that Gallagher *does not* disclose a request to hide a portion of the plurality of menus and a request to require authentication for a portion of the plurality of menus.

Niedereder is relied upon for this teaching and relates to a multi-functional remote controller (27) for a welding apparatus and a welding current source, which remote controller can be connected to the welding apparatus and the welding current source by at least one line, the remote controller (27) having setting elements and switching elements and at least one display unit. The remote controller (27) has no memory, in particular a memory card, and at least one additional interface, in particular a USB terminal, and the various parameters, functions and/or operating modes are set and edited by a menu-driven system. In Niedereder, when the profile has been set up, (presumably by a supervisor) the user can access only those menu items and tabs authorized by this profile and the other disabled menu items and tabs are not displayed or are shown as disabled.

The objective of Niedereder is achieved due to the fact that settings are entered and authorizations and profiles assigned via the remote controller, thereby giving the user access to

the menu items authorized for a particular profile, depending on the user profile set from the remote controller, whilst the other menu items are masked or disabled.

The Office Action asserts it would have been obvious to modify Gallagher's invention using the teaching of the control unit menu as taught by Neidereder since "it enables the system to add a request to hide a portion of the plurality of menus and a request to require authentication for a portion of the plurality of menus so that the user would only be able to operate those menus."

The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also KSR, 550 U.S. at ____, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Applicants respectfully submit the rejection is not only based on conclusory statements, but the asserted combination renders the reference unsatisfactory for its intended purpose, the recited features are not present in either reference and the requirements under KSR that the rejection must be supported by some rationale have not been met.

Specifically, in order for a rejection under 35 U.S.C. §103 to be proper, clear articulation of the reason(s) why the claimed invention would have been obvious should be stated by the Examiner and must be supported by some rationale which may include one of the following: (A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) "Obvious to try" - choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art; or (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. The Supreme Court recently noted in KSR that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. (MPEP §2143). The

Examiner has not, however, shown that the pending claims are obvious in view of any of the above-listed rationales.

Additionally, Applicants respectfully submit the following contradicts the Office Action's asserted combinability: given the diverse technologies of the two references (an IVR (i.e., voice) based navigation system and a text-based menu on a welder), one of ordinary skill in the IVR menu arts would not look to a text-based menu system since the combination of the cited references' teachings are incompatible, and the combination would be inoperative in that the interaction with a test-based menu architecture is entirely different than an IVR-based system. Also, the combination of the references would not replicate the claimed invention, due to claimed features not found in either reference, and due to fundamental differences between one of the references and the invention;

the cited references are in widely divergent fields of endeavor (the Supreme Court did note, however, that it may be permissible for an Examiner to look to non-analogous art in some circumstances);

there is a lack of any articulable rationale to support the legal conclusion of obviousness;

the rejection is based on a hindsight reconstruction of the invention in view of the applicants' own disclosure.

The dependent claims are patentably distinguishable from the cited reference for at least the above reasons and for the additional feature(s) recited therein.

For example, while the Office Action relies on paragraph 65 Gallagher for the teaching of the menu and an option being eligible to be hidden, as recited in Claims 12 and 37, Applicants respectfully submit there is no teaching, suggestion, or disclosure of this feature, nor even any recognition of the ability to hide a menu item as claimed.

Claims 14 and 39 are directed toward prompting the user to at least one of attach a file, enter a path name to a file and to record a message to play to an authenticated user. While the Office Action points to paragraph 56 of Gallagher for this teaching, no reasonable interpretation of this paragraph would lead one to conclude that the subject claims are taught or suggested.

Claims 15 and 40 are directed toward the ability to delete an authentication requirement associated with at least one of a menu and an option. Since Gallagher fails to teach, suggest or disclose an authentication requirement in general, Gallagher is also deficient in teaching, suggesting or disclosing the claimed feature in these claims.

Claims 17 and 42 are directed toward providing a user with all of the options. Contrary to the Examiners assertion, Gallagher is silent regarding any teaching, suggestion or disclosure of this feature, and in particular the ability to hide a menu option.

Regarding Claims 19 and 44, Applicants respectfully submit that there is no teaching, suggestion or disclosure of the claimed shortcut code and associating step.

Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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